IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.7777 OF 2003

Mr.P.S. Dani for the Petitioner.

Mr.Milind M. Sathaye for the Respondents Nos. 1 to 15.

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	CORAM: D.K.DESHMUKH, J.
	DATED: 4TH MAY,2005

P.C.:

1. In the civil suit, the Defendant raised an objection to the maintainability of the suit. That objection was decided by order dated 26th March, 2002 by the trial court holding that the court has the jurisdiction. As the application of the Plaintiff filed under Order 39 Rules 1 & 2 of CPC for temporary injunction was pending before the Court, the Court while disposing of the preliminary objection to the

maintainability of the suit directed the parties to maintain status-quo.

2. The Defendant feeling aggrieved by the order of status-quo filed an appeal against that order. On behalf of the Plaintiff an objection was raised to the maintainability of the appeal on the ground that the appeal is not maintainable because the order of status-quo is not passed under Order 39 Rules 1 & 2 of CPC but on the plaint itself holding that the suit is maintainable. The Appeal court has rejected that objection. In substance holding that the place where that order was passed may be Exh.1 i.e. the plaint that order is relatable to the power of the court to pass an order of temporary injunction under Order 39 Rules 1 & 2 and as the cause of the Plaintiff filed under Order 39 was pending before the court, the order of status quo would be an ad-interim order passed in exercise of the power of the court under Order 39. In find that the order of the Appellate court is perfectly legal. No exception can be taken to the

order. Petition is rejected.

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